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Dated: 11-4-04 Signature: Maura A. Gallagher
(Maura A. Gallagher)

Docket No.: SMCY-P03-085
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Richard F. Gladney

Application No.: 10/829669

Confirmation No.: 7742

Filed: April 21, 2004

Art Unit: 3673

For: PLASTIC MATTRESS FOUNDATION
HAVING SCULPTED EXTERIOR SURFACE

Examiner: Not Yet Assigned

**PETITION TO MAKE SPECIAL
UNDER 37 CFR 1.102(d)**

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Submitted herewith is a Petition to Make Special the above-identified patent application.

Attorneys for Applicant hereby state that a preexamination search was conducted. Copies of known references related to the subject matter were submitted to the PTO attached to an Information Disclosure Statement filed on July 7, 2004 and a Supplemental Information Disclosure Statement filed on November 4, 2004, and a Second Preliminary Amendment was submitted to the PTO on November 4, 2004; copies of these filings are attached hereto for convenience.

The following references were included in the Information Disclosure Statement filed on July 7, 2004: U.S. Patent No. 3,994,033; U.S. Patent No. 5,136,740; U.S. Patent No. 5,231,714; and U.S. Patent No. 5,469,589, each of which is summarized below.

The following references are known to Attorneys for Applicant as related to the subject matter of the present application and included in the Supplemental Information Disclosure Statement filed on November 4, 2004: U.S. Patent No. 2,827,952; U.S. Patent No. 3,049,729;

U.S. Patent No. 3,083,380; U.S. Patent No. 4,734,946; U.S. Patent No. 5,953,775; U.S. Patent No. 6,557,191; U.S. Patent Application Publication No. 2004/0078897; U.S. Patent Application Publication No. 2003/0079284; U.S. Patent Application Publication No. 2003/0024045; and U.S. Patent Application Publication No. 2002/0069462. Each of these references is summarized below. These references were also cited in the International Search Report in a related PCT International Patent Application No. PCT/US03/21815.

An additional hand search was conducted by National Patent Services as follows: class 5 was searched in subclasses 400, 308, 200.1, 675, 286, and 907; class 312 was searched in subclass 204; class 297 was searched in subclass 451.11, digest 2. The following references were identified by this hand search as related to the subject matter of the present application and included in the Supplemental Information Disclosure Statement filed on November 4, 2004: U.S. Patent No. 3,768,106; U.S. Patent No. 4,128,907; U.S. Patent No. 4,583,254; U.S. Patent No. 4,597,120; U.S. Patent No. 4,602,396; U.S. Patent No. 4,759,088; U.S. Patent No. 5,161,271; U.S. Patent No. 5,289,600; U.S. Patent No. 6,125,488; U.S. Patent No. 6,615,425; U.S. Patent No. 1,866,953; U.S. Patent No. 2,908,918; U.S. Patent No. 3,049,729; U.S. Patent No. 3,754,289; U.S. Patent No. 4,103,375; U.S. Patent No. 4,476,595; U.S. Patent No. 4,662,015; U.S. Patent No. 4,774,733; U.S. Patent No. 4,878,259; U.S. Patent No. 5,099,529; U.S. Patent No. 5,469,589; U.S. Patent No. 5,564,960; U.S. Patent No. 5,628,080; U.S. Patent No. 5,858,508; U.S. Patent No. 5,953,775; U.S. Patent No. 5,701,653; U.S. Patent No. 6,108,834; U.S. Patent No. 6,292,960; U.S. Patent No. 6,785,920; U.S. Patent Application Publication No. 2002/0069462; U.S. Patent Application Publication No. 2004/0078897; U.S. Patent Application Publication No. 2004/0128761, and U.K. Patent Application Publication No. GB 2172198A. Each of these references is summarized below.

With respect to the subject matter of the references, Applicant submits the following:

1. U.S. Patent No. 4,128,907 – This patent generally relates to a mattress foundation apparatus. Specifically, according to column 2, lines 36-39 of the patent, the object of the patent is to provide a mattress foundation apparatus which is fabricated or molded from very hard plastic which can be textured to match wood furniture in conventional bedrooms. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed

therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

2. U.S. Patent No. 4,583,254 – This patent generally relates to a low tension waterbed mattress. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

3. U.S. Patent No. 4,597,120 – This patent generally relates to a waterbed utilizing dual fluid filled mattresses and having improved surface continuity. In particular, this patent teaches a flexible sleeve 11 that can transversely encircle the entire length of mattress 10 as shown in Figure 2. This patent also teaches a covering 21 around the bottoms and outward sides of the mattress 10 and a flexible sheet 22 extending across the mattress and attached to the covering as shown in Figures 3 and 4. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

4. U.S. Patent No. 4,602,396 – This patent generally relates to a waterbed flotation system with vapor barrier. Specifically, this patent teaches a cover 13 enclosing the water mattress 11 as shown in Figure 2. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

5. U.S. Patent No. 4,759,088 – This patent generally relates to a self-aligning mattress assembly. In particular, this patent teaches foundations 11 that are preferably covered with mattress ticking 29 as shown in Figure 3. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

6. U.S. Patent No. 5,161,271 – This patent generally relates to a waterbed mattress cover with a removable top and insertable foam pads. In particular, this patent teaches a quilted top 22 that is connected by a zipper 24 to the sidewalls 20 as shown in Figures 1 and 2. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

7. U.S. Patent No. 5,231,714 – This patent generally relates to a mattress foundation and support. In particular, this patent teaches a foundation comprising a rectangular shaped wall 31 having an inside surface 33 and an outside surface 35. It further teaches a rectangular polyurethane foam layer 71 located on the outside surface 35. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

8. U.S. Patent No. 5,289,600 – This patent generally relates to a mattress base assembly kit. In particular, this patent teaches a mattress support base that emulates the appearance of a conventional box spring with a flat top surface for supporting a mattress, quilted fabric on the side surfaces, and supporting legs to elevate the base. As shown in figure 1, the quilted fabric is removable from the frames. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

9. U.S. Patent No. 6,125,488 – This patent generally relates to a corner guard for a mattress foundation. Specifically, this patent teaches a foam layer that may be positioned between the core and the cover to impart a quilted texture in appearance to the corner guard and to provide additional padding for the mattress foundation. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

10. U.S. Patent No. 6,615,425 – This patent generally relates to a box foundation with included drawers. Specifically, this patent teaches a box spring with built-in drawers. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

11. U.S. Patent No. 1,866,953 – This patent generally relates to a bed which may be either of the double or single size or of the daybed or cot type. This patent further teaches box foundations that are preferably made of 3-ply laminated material. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

12. U.S. Patent No. 2,827,952 – This patent generally relates to cushion construction. Specifically, the cushion construction is composed of a plurality of interconnected sections, each section comprising a somewhat rigid and hollow body having resilient characteristics and including a support portion for receiving a load directly. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

13. U.S. Patent No. 2,908,918 – This patent generally relates to bed frames and more particularly to a metal bed frame having an integral internal flange for supporting a plurality of spring strips. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

14. U.S. Patent No. 3,049,729 – This patent generally relates to beds and more particularly to certain new and useful improvements in beds incorporating rubber mattresses and relatively rigid supports therefor. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the

side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

15. U.S. Patent No. 3,083,380 – This patent generally relates to improvement in mattresses and the object of the patent is to provide a mattress arranged for combination with the supporting member therefor. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

16. U.S. Patent No. 3,754,289 – This patent generally relates to a bed base for supporting a box spring. The bed base has side panels and end panels preferably are respectfully integrally formed from polystyrene plastic. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

17. U.S. Patent No. 3,768,106 – This patent generally relates to a bed having a box spring including a base frame with transverse slats and an interengaged spring support frame. Specifically, as shown in Figure 8, a decorative panel 99 includes longitudinal panels 101 which are removably retained upon the box spring 13 by hangers 111. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

18. U.S. Patent No. 3,994,033 – This patent generally relates to a bedstead, more particularly a bedstead comprising a base frame or plinth providing a rectangular ledge. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

19. U.S. Patent No. 4,103,375 – This patent generally relates to a modular decorative waterbed frame including a pair of sidewalls and a pair of end walls of uniform cross-sectional configuration. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

20. U.S. Patent No. 4,476,595 – This patent generally relates to a mattress for use on a bed and settee comprising a spring unit, at least one cushion, a protection layer arranged between the spring unit and the cushion, and an outer covering for covering these component members. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

21. U.S. Patent No. 4,662,015 – This patent generally relates to a combined foundation and a bedspread bench for supporting a mattress, wherein the foundation includes an upper layer defined in part by uniform support structure which extends to the perimeter of the upper layer. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

22. U.S. Patent No. 4,734,946 – This patent generally relates to a knock down foundation for a floatation sleep system comprising of plurality of interlocking sections combining to form a rectangular base. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

23. U.S. Patent No. 4,774,733 – This patent generally relates to a bed frame ideally suited for supporting a water mattress comprising first and second frame members including vertically disposed and horizontally spaced pedestals having a pan portion at the upper end

thereof. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

24. U.S. Patent No. 4,878,259 – This patent generally relates to a one piece decorative wrap to cover waterbed pedestals which can be quickly and easily installed even on an assembled waterbed. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

25. U.S. Patent No. 5,099,529 – This patent generally relates to a bed frame assembly which is of an adjustable width to support various sizes of mattresses and springs. In general the assembly comprises two rectangular framed units positioned in spaced apart side-by-side relationship and held a pre-determined distance apart by an adjustable spacer member or members. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

26. U.S. Patent No. 5,136,740 – This patent generally relates to a varying firmness mattress which is formed with upper variable firmness section covering a lower section of a generally uniform firmness. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

27. U.S. Patent No. 5,469,589 – This patent generally relates to a bed foundation comprising a pair of parallel spaced side rails with ends connected by corner braces to the ends of parallel, spaced cross rails thereby defining a rectangular box frame. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall,

wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

28. U.S. Patent No. 5,564,960 – This patent generally relates to a toy bed and bank apparatus including a first mattress support assembly of plurality of drawers supported by the first mattress support assembly, and a second mattress support assembly selectively connected to or disconnected from the first mattress support assembly. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

29. U.S. Patent No. 5,628,080 – This patent generally relates to a protective and decorative mattress foundation curved corner guard which is mold formed in a curved configuration with a wall portion of the guard having a radius of curvature approximately equal to a radius of curvature of rounded corners of a mattress foundation to which the corner guard is to be attached. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

30. U.S. Patent No. 5,701,653 – This patent generally relates to a method of assembling a furniture box spring frame. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

31. U.S. Patent No. 5,858,508 – This patent generally relates to a process for selectively forming an antislip surface on a product thermoformed from a plastic sheet, the process being applied to truck bed liners. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

32. U.S. Patent No. 5,953,775 – This patent generally relates to a unitary body bedding foundation. The unitary body bedding foundation is for constructing the top deck portion, the end walls and the side walls as a single piece. The top deck member can be detached from the side walls and the end walls. The unitary body bedding foundation includes a top deck member having two spaced apart sidewalls and two spaced apart end walls on its bottom face. The unitary body bed foundation may also include a support frame member adjacent to the bottom face of the top deck member. The support frame member can be either a lattice support frame member having a plurality of longitudinal and latitudinal intersecting ribs included on the bottom face, or at least one lateral slat extended transversely between the two sidewalls and the ends of each lateral slat being accepted by a slat brace on each of the sidewalls. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

33. U.S. Patent No. 6,108,834 – This patent generally relates to a unitary body bedding foundation. Specifically, this patent provides a unitary base member for support a wire spring assembly of a bed foundation. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

34. U.S. Patent No. 6,292,960 – This patent generally relates to a hidden safe associated with a bed. Specifically, this patent teaches an improved concealed safe for concealment of firearms and other valuables therein, the safe being sized and shaped to replace a bed box spring. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

35. U.S. Patent No. 6,557,191 – This patent generally relates to a bed frame including a headboard a footboard, a right-side rail and a left-side rail. This reference does not teach or

suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

36. U.S. Patent No. 6,785,920 – This patent generally relates to a bed frame system for providing storage under a mattress. More specifically, the bed frame systems includes a plurality of storage assemblies being designed for being positioned under the mattress to support the mattress. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

37. U.S. Patent Application Publication No. 2002/0069462 – This patent application generally relates to a bed foundation which is constructed of blow-molded plastic and may be assembled without using tools. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

38. U.S. Patent Application Publication No. 2003/0024045 – This patent application generally relates to a bed frame including a headboard, a foot board, a right-side rail, and a left-side rail. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

39. U.S. Patent Application Publication No. 2003/0079284 – This patent application generally relates to a bed foundation which is constructed of blow-molded plastic and may be assembled without using tools. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

40. U.S. Patent Application Publication No. 2004/0078897 – This patent application generally relates to a plastic mattress foundation. In particular, this patent application teaches a foundation ribbed with air spaces formed therein. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

41. U.S. Patent Application Publication No. 2004/0128761 – This patent application generally relates to a bed foundation which is constructed of blow-molded plastic and may be assembled without using tools. One embodiment provides a bed foundation that, when assembled, has a top panel which overhangs the side rails to permit an oversized mattress to be placed thereon. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

42. United Kingdom Patent Application Publication No. GB2172198 – This patent application generally relates to a bed frame 50 comprising four framed units 10, 20, 30, 40, each having two elongated frame members (11 and 12) and two end members (13 and 14) and a plurality of run members parallel to the end members. This reference does not teach or suggest a plastic mattress foundation comprising at least one essentially rigid side wall, wherein an outer surface of the side wall includes three-dimensional features formed therein, wherein the three-dimensional features mimic a quilting pattern of a companion mattress.

Accordingly, Applicant requests that this Petition to Make Special be granted and the application undergo accelerated examination.

Please charge our Deposit Account No. 18-1945 in the amount of \$130.00 covering the fee set forth in 37 CFR 1.17(h). The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with

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any paper hereafter filed in this application by this firm) to our Deposit Account No. 18-1945, under Order No. SMCY-P03-085. A duplicate copy of this paper is enclosed.

Dated: November 4, 2004

Respectfully submitted,

By 

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